

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)
)
FIRST AMERICANS INSURANCE) CASE NO. BK09-40067-TLS
SERVICE, INC.,) A11-4074-TLS
)
) CHAPTER 11
Debtor.)

THOMAS D. STALNAKER,)
)
) Plaintiff,)
)
vs.)
)
DAN FITCH,)
)
) Defendant.)

ORDER

This matter is before the court on its own motion.

The record indicates the defendant has included a jury trial demand in his “protective answer: filed under protest” (Fil. No. 32). The defendant has also filed a proof of claim in the First Americans Insurance Service, Inc., bankruptcy case (*see* Claim No. 14).

The United States Supreme Court has stated in a number of cases that when a defendant files a claim against the bankruptcy estate, he “triggers the process of ‘allowance and disallowance of claims,’ thereby subjecting himself to the bankruptcy court’s equitable power,” *Langenkamp v. Culp*, 498 U.S. 42, 44 (1990) (citing *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 58-59 and n.14 (1989) and *Katchen v. Landy*, 382 U.S. 323, 336 (1966)), and waiving whatever right he might have had to a jury trial. The resolution of plaintiff’s causes of action necessarily includes the administration of defendant’s claim.

Therefore, the matter is now within the equitable jurisdiction of the bankruptcy court and is not subject to resolution by a jury at law. For that reason, the defendant’s jury trial demand will be stricken.

IT IS ORDERED: The defendant’s demand for a jury trial is hereby stricken from the record.

DATED: February 28, 2012.

BY THE COURT:

/s/ Thomas L. Saladino
Chief Judge

Notice given by the Court to:

John D. Stalnaker
Robert J. Becker
John P. Raynor
United States Trustee